

## PLANNING COMMISSION

March 23, 2022

**AMENDED**

Action Minutes

### WELCOME

### ROLL CALL

PRESENT: Commissioners Bonilla, Casey, Caballero, Cantrell, Garcia, Lardinois, Montañez (arrived at 6:38 p.m.), Oliverio (arrived at 6:33 p.m.), Ornelas-Wise, Young

ABSENT: Commissioners Torrens

## **1. CALL TO ORDER & ORDERS OF THE DAY**

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Meeting called to order at: 6:30 p.m.

## **2. PUBLIC COMMENT**

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*William Christenson spoke regarding R-1 zoning. He said R-1 zoning is causing housing crisis across the U.S. Also, we need to build walkable mixed-use communities that is accessible to people with disabilities*

Access the video, agenda, and related reports for this meeting by visiting the City's website at:  
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/planning-commission>

### 3. DEFERRALS AND REMOVALS FROM CALENDAR

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- a. **CP21-012:** Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol (Type 21 ABC License – Full Range of Alcoholic Beverages) at an existing 124,320-square foot retail store (Target) on an approximately 11.5-gross acre site located at 450 North Capitol Avenue (Capitol Square Partners, Owner). Council District: 5. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301(a) for Existing Facilities.

*PROJECT MANAGER, ALEC ATIENZA*

**1. DROPPED TO BE RENOTICED TO THE APRIL 13, 2022 PLANNING COMMISSION MEETING.**

**STAFF RECOMMENDATION WAS UPDATED TO DROPPED AND RENOTICED TO THE APRIL 27, 2022 PLANNING COMMISSION MEETING.**

**ACTION: COMMISSIONER ORNELAS-WISE MADE A MOTION TO APPROVE THE UPDATED STAFF RECOMMENDATION TO DROP AND RENOTICE TO THE APRIL 27, 2022 PLANNING COMMISSION MEETING.**

**COMMISSIONER OLIVERIO SECONDED THE MOTION (9-0-2; TORRENS & MONTAÑEZ ABSENT).**

### 4. CONSENT CALENDAR

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**ITEM 4.B. WAS PULLED FROM CONSENT CALENDAR AND HEARD UNDER PUBLIC HEARING BY COMMISSIONER ORNELAS-WISE. ITEM 4.B. WAS HEARD BEFORE ITEM 5.A.**

**ACTION: COMMISSIONER OLIVERIO MADE A MOTION TO APPROVE CONSENT CALENDAR ITEM 4.A.**

**COMMISSIONER CABALLERO SECONDED THE MOTION (8-0-1-2; TORRENS ABSENT, MONTAÑEZ & BONILLA ABSTAINED)**

- a. Review and Approve Action Minutes from [March 9, 2022](#).
- b. [CP21-018 \(Administrative Hearing\)](#). Conditional Use Permit to allow the demolition of an existing 5,300-square foot vacant warehouse building and the removal of 12 ordinance-size trees and 14 non-ordinance-size trees, and the construction of a commercial vehicle storage facility and a private electrical power generation facility with a total of 344 square feet of buildings and site improvements on an approximately 6.45-gross acre site located on the west side of the intersection of Phelan Avenue and Monterey Road (1675 Monterey Road) (Barry McRay, Owner). Council District: 7. **CEQA:** Initial Study/Mitigated Negative Declaration for the 1675 Monterey Road Off-Site Parking Project.

*PROJECT MANAGER, ANGELA WANG*

**1. ADOPT A RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION FOR THE 1675 MONTEREY ROAD OFF-SITE PARKING**

**PROJECT, FOR WHICH AN INITIAL STUDY WAS PREPARED, AND ADOPTING AN ASSOCIATED MITIGATION MONITORING AND REPORTING PLAN, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), AS AMENDED;**

- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING 5,300-SQUARE FOOT VACANT WAREHOUSE BUILDING AND THE REMOVAL OF 12 ORDINANCE-SIZE TREES AND 14 NON-ORDINANCE-SIZE TREES, AND THE CONSTRUCTION OF A COMMERCIAL VEHICLE STORAGE FACILITY AND A PRIVATE ELECTRICAL POWER GENERATION FACILITY WITH A TOTAL OF 344 SQUARE FEET OF BUILDINGS AND SITE IMPROVEMENTS ON AN APPROXIMATELY 6.45-GROSS ACRE SITE.**

**ACTION: COMMISSIONER ORNELAS WISE MADE A MOTION TO APPROVE STAFF RECOMMENDATION WITH THE ADDITION THAT MOTOR VEHICLES WOULD NOT BE ALLOWED TO ENTER OR LEAVE THE PARKING SPACES ADJACENT TO THE MOBILE HOME PARK BETWEEN THE HOURS OF 7:00 P.M. AND 7:00 A.M. AND THAT SIGNS WOULD ALSO BE REQUIRED TO STATE THIS CONDITION.**

**ACTION: COMMISSIONER OLIVERIO MADE A SUBSTITUTE MOTION TO APPROVE STAFF'S RECOMMENDATION WITH NO MODIFICATIONS.**

**COMMISSIONER YOUNG SECONDED THE SUBSTITUTE MOTION.**

**COMMISSIONER ORNELAS-WISE MADE A FRIENDLY AMENDMENT TO INCLUDE HER MOTION IN THE SUBSTITUTE MOTION WITH THE ADDITION THAT THE RESTRICTIONS WOULD NOT APPLY TO ELECTRIC VEHICLES.**

**THE FRIENDLY AMENDMENT WAS NOT ACCEPTED BY COMMISSIONER OLIVERIO AND COMMISSIONER YOUNG.**

**ACTION: SUBSTITUTE MOTION MADE BY COMMISSIONER OLIVERIO TO ACCEPT STAFF'S RECOMMENDATION WITH NO MODIFICATION PASSES (10-0-1; TORRENS ABSENT)**

## **5. PUBLIC HEARING**

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**COMMISSIONER BONILLA STATED HIS CONFLICT OF INTEREST IN PARTICIPATING IN DECISION-MAKING FOR ITEM 5.A. BECAUSE HE OWNS PROPERTY WITHIN 1,000 FEET OF THE SUBJECT SITE AND LEFT THE HEARING.**

- a. [CP18-003 \(Administrative Hearing\)](#). Conditional Use Permit to allow the construction of an approximately 8,515-square foot single-family residence with a 1,725-square foot attached garage, a 2,178-square foot tractor barn, and a 3,688-square foot pool house on a 49.15-gross acre site located on the northwest corner of Fleming Avenue and Murietta Lane (1360 Fleming Avenue) (Morning Star Farm LLC, Owner). Council District: 5. **CEQA:** 1360 Fleming Avenue Initial Study/Mitigated Negative Declaration.

*PROJECT MANAGER, MAIRA BLANCO*

**ACTION: COMMISSIONER YOUNG MADE A MOTION TO RECOMMEND THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS:**

- 1. ADOPT A RESOLUTION ADOPTING THE 1360 FLEMING AVENUE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (MND) AND ASSOCIATED MITIGATION, MONITORING AND REPORTING PROGRAM (MMRP) IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); AND**
- 2. ADOPT A RESOLUTION APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 8,515-SQUARE-FOOT, TWO-STORY, SINGLE-FAMILY RESIDENCE WITH AN APPROXIMATELY 1,725-SQUARE-FOOT ATTACHED GARAGE, A 2,178-SQUARE-FOOT TRACTOR BARN, AND A 3,688-SQUARE-FOOT POOL HOUSE ON A 49.15-GROSS ACRE LOT.**

**COMMISSIONER OLIVERIO SECONDED THE MOTION (9-0-1-1; TORRENS ABSENT, BONILLA ABSTAINED)**

**COMMISSIONER BONILLA JOINED THE MEETING AFTER ITEM 5.A. WAS HEARD.**

## **6. CONTINUE THE GENERAL PLAN HEARING (2022 CYCLE 2)**

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## **7. GENERAL PLAN CONSENT CALENDAR**

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**No Items**

## 8. GENERAL PLAN PUBLIC HEARING

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- a. **GPT21-003, PP21-008, & C21-018**: City-initiated General Plan Amendment to the Envision San José 2040 General Plan to remove or modify references to the North San José Area Development Policy which will no longer apply to future development in North San José, increase the minimum density within the Transit Employment Residential Overlay (TERO) General Plan land use designation from 55 dwelling units per acre to 75 dwelling units per acre, and remove the floor area ratio requirement; amendment of the North San Jose Area Development Policy to limit the application of the North San Jose Area Development Policy to projects that have received an approved land use entitlement and/or land use permit prior to the effective date of the General Plan and North San Jose Area Development Policy amendment resolutions described herein; an ordinance amending Title 20 of the San José Municipal Code (Zoning Ordinance) to add Chapter 20.65 Overlay Districts including theTERO Transit Employment Residential Overlay District, and amending the Zoning District Map to add the TERO Overlay District; and an ordinance amending Chapter 14.29 of the San José Municipal Code (North San Jose Traffic Impact Fee) to limit the application of the North San Jose Traffic Impact Fee to projects that have received an approved land use entitlement and/or land use permit prior to the effective date of the General Plan and North San Jose Area Development Policy amendment resolutions described herein. (Citywide). Council District Citywide. **CEQA**: Addendum to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José General Plan Final Program Environmental Impact Report (Resolution No. 77617) and Addenda thereto. *Deferred from 3/9/22.*  
**PROJECT MANAGER, JOE SORDI**

**ACTION: COMMISSIONER MONTAÑEZ MADE A MOTION TO RECOMMEND THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS:**

1. **ADOPT A RESOLUTION ADOPTING AN ADDENDUM TO THE ENVISION SAN JOSÉ 2040 GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 76041) AND SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT TO THE ENVISION SAN JOSÉ GENERAL PLAN FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT (RESOLUTION NO. 77617) AND ADDENDA THERETO IN CONFORMANCE WITH CEQA (GPT21-003 AND C21-018);**
2. **ACCEPT THE FEBRUARY 18, 2022 NORTH SAN JOSE TRAFFIC IMPACT FEE PLAN UPDATE;**
3. **ADOPT A RESOLUTION AMENDING THE ENVISION SAN JOSÉ 2040 GENERAL PLAN AND THE NORTH SAN JOSE AREA DEVELOPMENT POLICY (ADP) TO:**
  - A. **REMOVE OR MODIFY REFERENCES TO THE ADP IN THE GENERAL PLAN;**
  - B. **INCREASE THE MINIMUM DENSITY WITHIN THE TERO GENERAL PLAN LAND USE DESIGNATION FROM 55 DWELLING UNITS PER ACRE TO 75 DWELLING UNITS PER ACRE AND DELETE THE MINIMUM FLOOR AREA RATIO REQUIREMENT; AND**
  - C. **LIMIT THE APPLICATION OF THE ADP TO PROJECTS THAT RECEIVED AN APPROVED ENTITLEMENT (GENERAL PLAN AMENDMENT AND/OR ZONING AMENDMENT) AND/OR A LAND USE PERMIT FROM THE EFFECTIVE DATE OF THE ADP TO THE EFFECTIVE DATE OF THIS**

**RESOLUTION MAKING SUCH CHANGES, THUS MAKING THE NORTH SAN JOSÉ TRAFFIC IMPACT FEE INAPPLICABLE TO FUTURE NORTH SAN JOSÉ DEVELOPMENT PROJECTS;**

- 4. APPROVE AN ORDINANCE AMENDING TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (ZONING ORDINANCE) TO ADD CHAPTER 20.65 “OVERLAY DISTRICTS” INCLUDING THE TERO OVERLAY ZONING DISTRICT AND AMENDING THE ZONING DISTRICT MAP TO INCLUDE THE “TERO TRANSIT EMPLOYMENT RESIDENTIAL OVERLAY DISTRICT;” AND**
- 5. APPROVE AN ORDINANCE AMENDING SAN JOSÉ MUNICIPAL CODE TITLE 14, CHAPTER 14.29 “NORTH SAN JOSÉ TRAFFIC IMPACT FEE” TO LIMIT THE APPLICATION OF CHAPTER 14.29 TO PROJECTS THAT RECEIVED APPROVED ENTITLEMENTS (GENERAL PLAN AMENDMENT AND/OR ZONING AMENDMENT) AND/OR A LAND USE PERMIT FROM THE EFFECTIVE DATE OF THE ADP TO THE EFFECTIVE DATE OF THE RESOLUTION MAKING SUCH CHANGES, THUS MAKING THE NORTH SAN JOSÉ TRAFFIC IMPACT FEE INAPPLICABLE TO FUTURE NORTH SAN JOSÉ DEVELOPMENT PROJECTS.**

**COMMISSIONER CANTRELL SECONDED THE MOTION (9-1-1; OLIVERIO OPPOSED, TORRENS ABSENT).**

## **9. CLOSE THE GENERAL PLAN HEARING (2022 CYCLE 2)**

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**ACTION: COMMISSIONER OLIVERIO MADE A MOTION TO CLOSE THE GENERAL PLAN HEARING (CYCLE 2)**

**COMMISSIONER CASEY SECONDED THE MOTION (10-0-1; TORRENS ABSENT).**

## **10. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES**

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**No items**

## **10. GOOD AND WELFARE**

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- a. Report from City Council

*The Commission Secretary reported on City Council actions taken on March 15, 2022 and March 22, 2022.*

b. Subcommittee Formation, Reports, and Outstanding Business

*No items*

c. Commission Calendar and Study Sessions

*No items*

d. The Public Record

*Commissioner Bonilla acknowledged City Attorney Vera Todorov's service to the City of San Jose and Planning Commission. Commissioner Young stated his appreciation to Vera. Commissioner Young also expressed a desire to return to having Planning Commission meetings in person. He asked staff to discuss this with the Planning Director. Vera Todorov said her goodbyes and best wishes, health, and happiness to the Commissioners. She asked to be invited to the first in person Planning Commission meeting to meet the Planning Commissioners. Commissioner Caballero and Commissioner Lardinois also thanked Vera for her support.*

## **11. ADJOURNMENT**

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Meeting adjourned at 8:26 p.m.